

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

September 20, 2004

GSBCA 16439-RELO

In the Matter of JOHN J. RANERO

John J. Ranero, Villa Rica, GA, Claimant.

Lori R. Larson and Randall J. Hall, Public Contract & Technology Law Branch,
Office of Chief Counsel, Internal Revenue Service, Washington, DC, appearing for
Department of the Treasury.

BORWICK, Board Judge.

Claimant, an employee of the Internal Revenue Service, Department of the Treasury (agency), purchased two residences in succession, after his permanent change of station (PCS) transfer. The agency reimbursed claimant for the expenses of the first residence. Upon claimant's purchase of the second residence, he sought reimbursement of \$937.35, which was the difference between the transaction expenses of the second residence and the amount the agency reimbursed for the first residence. The agency denied claimant the second reimbursement.

We sustain the agency's actions. Statute and the implementing Federal Travel Regulation (FTR) provide for payment of purchase expenses of "a" residence, not reimbursement for the purchase expenses of multiple residences. Claimant, having sought and received reimbursement for transaction expenses for purchase of the first residence, may not receive reimbursement for the excess transaction expenses associated with the second residence. We deny the claim.

Background

On or about September 19, 2001, the agency issued a PCS authorization for claimant's transfer from New Orleans, Louisiana, to Atlanta, Georgia. Because the transfer was in the interest of the Government, the agency granted claimant relocation benefits including reimbursement of real estate transaction expenses.

Claimant reported for duty in Atlanta on January 2, 2002. On February 8, 2002, claimant purchased a residence at Pebble Creek Court, Villa Rica, Georgia (the first residence), and incurred real estate transaction expenses. Claimant submitted a

reimbursement voucher for \$2692.17 and the agency reimbursed claimant \$2687.15, disallowing one item not at issue here. The agency states, without contradiction by claimant, that claimant resided in the first residence from February until December 2002 and commuted to work from that residence.

Claimant states that he put his home in Louisiana on the market in July 2002, but was unable to sell it. In December of 2002 claimant sold his home in Louisiana to a relocation services company. That month, with the proceeds of the sale, claimant purchased what he calls a second "family residence" at River Bend Court in Villa Rica, Georgia. According to claimant the second residence is 152 square feet larger and three miles closer to his permanent duty station than his first residence.

Claimant incurred \$3624.50 of expenses in the purchase of that residence. On December 31, 2003, claimant submitted a voucher for \$937.35, which is the difference between \$3624.50 and the \$2687.15 which the agency had reimbursed claimant.

The agency denied reimbursement of the additional \$937.35 on the ground that statute and regulation prevent claimant's reimbursement for two consecutive real estate transactions. Before the Board, in addition to that reason, the agency maintains that claimant's purchase of the second residence was not incident to claimant's transfer.

Discussion

Statute provides that under prescribed regulations agencies "shall pay" to an employee who transfers in the interest of the Government expenses of the "purchase of a residence at the new official station that are required to be paid by the employee" when the old and new official stations are located within the United States. 5 U.S.C. § 5724a(d)(1) (2000). The implementing FTR provides in its question and answer format:

What is the purpose of an allowance for expenses incurred in connection with residence transactions?

The purpose of an allowance incurred in connection with residence transactions is to reimburse you when you transfer from an old official station for expenses you incur due to . . . the purchase of a residence at your new official duty station.

41 CFR 302-11.1(a) (2002).

The general purpose of the statute and regulation is to reimburse the employee for one set of authorized expenses relating to one sale and one purchase. See Douglas D. Walldorff, 57 Comp. Gen. 669 (1978). Indeed, both the statute and FTR use the singular article "a" modifying the noun "residence" in describing the residence purchase entitlement.

Here, claimant sought, and received, reimbursement for the transaction expenses of his first residence, the one to and from which he regularly commuted for about ten months. Claimant, having elected and received reimbursement for that residence, may not be reimbursed for the purchase of a second residence. The Board denies the claim.

ANTHONY S. BORWICK
Board Judge